

AMENDED IN SENATE AUGUST 15, 1996

AMENDED IN SENATE JUNE 3, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2568

Introduced by Assembly Member Woods

February 21, 1996

An act to amend Sections 14123 and 14124.2 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2568, as amended, Woods. Medi-Cal: dental providers.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services, including dental services.

Existing law contains specified grounds upon which the Director of Health Services may suspend a health care provider from participation in the Medi-Cal program.

This bill would, in addition, permit suspension by the director of a provider of dental services for the provision of services which are below or less than the standard of acceptable quality established by the California Dental Association Guidelines for the Assessment of Clinical Quality and Professional Performance.

This bill would incorporate additional changes in Section 14124.2 of the Welfare and Institutions Code, proposed by AB 2565, to be operative only if AB 2565 and this bill are both

chaptered and become effective January 1, 1997, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14123 of the Welfare and
2 Institutions Code is amended to read:

3 14123. Participation in the Medi-Cal program by a
4 provider of service is subject to suspension in order to
5 protect the health of the recipients and the funds
6 appropriated to carry out this chapter.

7 (a) The director may suspend a provider of service
8 from further participation under the Medi-Cal program
9 for violation of any provision of this chapter or Chapter
10 8 (commencing with Section 14200) or any rule or
11 regulation promulgated by the director pursuant to those
12 chapters. Any such suspension may be for an indefinite or
13 specified period of time and with or without conditions or
14 may be imposed with the operation of the suspension
15 stayed or probation granted. The director shall suspend
16 a provider of service for conviction of any felony or any
17 misdemeanor involving fraud, abuse of the Medi-Cal
18 program or any patient, or otherwise substantially related
19 to the qualifications, functions, or duties of a provider of
20 service.

21 If the provider of service is a clinic, group, corporation,
22 or other association, conviction of any officer, director, or
23 shareholder with a 10 percent or greater interest in that
24 organization, of such a crime shall result in the suspension
25 of that organization and the individual convicted if the
26 director believes that suspension would be in the best
27 interest of the Medi-Cal program. If the provider of
28 services is a political subdivision of the state or other
29 government agency, the conviction of the person in
30 charge of the facility of such a crime may result in the
31 suspension of that facility. The record of conviction or a
32 certified copy thereof, certified by the clerk of the court
33 or by the judge in whose court the conviction is had, shall



1 be conclusive evidence of the fact that the conviction
2 occurred. A plea or verdict of guilty, or a conviction
3 following a plea of nolo contendere is deemed to be a
4 conviction within the meaning of this section.

5 After conviction but before the time for appeal has
6 elapsed or the judgment of conviction has been affirmed
7 on appeal, the director, if he or she believes that
8 suspension would be in the best interests of the Medi-Cal
9 program, may order the suspension of a provider of
10 service. When the time for appeal has elapsed, or the
11 judgment of conviction has been affirmed on appeal or
12 when an order granting probation is made suspending
13 the imposition of sentence irrespective of any subsequent
14 order under Section 1203.4 of the Penal Code allowing a
15 person to withdraw his or her plea of guilty and to enter
16 a plea of not guilty, or setting aside the verdict of guilty,
17 or dismissing the accusation, information or indictment,
18 the director shall order the suspension of a provider of
19 service. The suspension shall not take effect earlier than
20 the date of the director's order. Suspension following a
21 conviction is not subject to the proceedings required in
22 subdivision (c). However, the director may grant an
23 informal hearing at the request of the provider of service
24 to determine in the director's sole discretion if the
25 circumstances surrounding the conviction justify
26 rescinding or otherwise modifying the suspension
27 provided for in this subdivision.

28 If the provider of service appeals the conviction and the
29 conviction is reversed, the provider may apply for
30 reinstatement to the Medi-Cal program after the
31 conviction is reversed. Notwithstanding Section 14126.6,
32 the application for reinstatement shall not be subject to
33 the one-year waiting period for the filing of a
34 reinstatement petition pursuant to Section 11522 of the
35 Government Code.

36 (b) Whenever the director receives written
37 notification from the Secretary of the United States
38 Department of Health and Human Services, that a
39 physician or other individual practitioner has been
40 suspended from participation in the Medicare or

1 Medicaid programs, the director shall, promptly suspend
2 the practitioner from participation in the Medi-Cal
3 program. This automatic suspension is not subject to the
4 proceedings required in subdivision (c). No payment
5 from state or federal funds may be made for any item or
6 service rendered by the practitioner during the period of
7 suspension.

8 (c) The proceedings for suspension shall be conducted
9 in accordance with Chapter 5 (commencing with Section
10 11500) of Part 1 of Division 3 of Title 2 of the Government
11 Code, except that hearings may be conducted by
12 departmental hearing officers appointed by the director.
13 The director may periodically subcontract with the
14 Office of Administrative Hearings to conduct the
15 hearings. The director may temporarily suspend any
16 provider of service prior to any hearing when in his or her
17 opinion that action is necessary to protect the public
18 welfare or the interests of the Medi-Cal program. The
19 director shall notify the provider of service of the
20 temporary suspension and the effective date thereof and
21 at the same time serve the provider with an accusation.
22 The accusation and all proceedings thereafter shall be in
23 accordance with the sections of the Government Code
24 specified in this subdivision. Upon receipt of a notice of
25 defense by the provider, the director shall set the matter
26 for hearing within 30 days after receipt of the notice. The
27 temporary suspension shall remain in effect until such
28 time as the hearing is completed and the director has
29 made a final determination on the merits. The temporary
30 suspension shall, however, be deemed vacated if the
31 director fails to make a final determination on the merits
32 within 60 days after the original hearing has been
33 completed. This subdivision does not apply where the
34 suspension of a provider is based upon the conviction of
35 any crime involving fraud, abuse of the Medi-Cal
36 program, or suspension from the federal Medicare
37 program. In those instances, suspension shall be
38 automatic.

39 (d) The suspension by the director of any provider of
40 service shall preclude the provider from submitting

1 claims for payment, either personally or through claims
2 submitted by any clinic, group, corporation, or other
3 association to the Medi-Cal program for any services or
4 supplies the provider has provided under the program,
5 except for services or supplies provided prior to the
6 suspension. No clinic, group, corporation, or other
7 association which is a provider of service shall submit
8 claims for payment to the Medi-Cal program for any
9 services or supplies provided by a person within the
10 organization who has been suspended or revoked by the
11 director, except for services or supplies provided prior to
12 the suspension.

13 Where the provisions of this chapter or Chapter 8
14 (commencing with Section 14200) or the regulations
15 promulgated by the director are violated by a provider of
16 service which is a clinic, group, corporation, or other
17 association, the director may suspend the organization
18 and any individual person within the organization who is
19 responsible for the violation.

20 (e) Notice of the suspension shall be sent by the
21 director to the provider's state licensing, certifying, or
22 registering authority, along with the evidence upon
23 which the suspension was based.

24 (f) In addition to the bases for suspension contained in
25 subdivisions (a) and (b), the director may suspend a
26 provider of service from further participation under the
27 Medi-Cal dental program for the provision of services
28 that are below or less than the standard of acceptable
29 quality, as established by the California Dental
30 Association Guidelines for the Assessment of Clinical
31 Quality and Professional Performance, Copyright 1995,
32 Third Edition, as periodically amended. Any such
33 suspension shall be subject to the requirements contained
34 in subdivisions (a) to (e), inclusive.

35 SEC. 2. Section 14124.2 of the Welfare and Institutions
36 Code is amended to read:

37 14124.2. During normal working hours, the
38 department may make any examination of the books and
39 records of any provider pertaining to services rendered
40 to any beneficiary under this chapter or Chapter 8

1 (commencing with Section 14200), and may visit and
2 inspect the premises or facilities of any provider it may
3 deem necessary to carry out the provisions of this chapter
4 and regulations adopted thereunder. A provider shall
5 furnish that information or copies of those records and
6 documentation upon request by the department.
7 Unannounced visits to request that information shall be
8 reserved for those exceptional situations where
9 arrangement of an appointment beforehand is clearly not
10 possible or is clearly inappropriate to the nature of the
11 intended visit. Only those related books and records of
12 each service rendered, the beneficiary to whom
13 rendered, the date, and any additional information as the
14 department may by regulation require shall be subject to
15 the requirement of furnishing copies. This information
16 may include records to support and document the
17 recipient's eligibility for services, and to the extent
18 necessary records to provide proof of the quantity and
19 receipt of these services, and that the services were
20 provided by proper personnel. Providers shall be
21 reimbursed for reasonable photocopying related
22 expenses as determined by the department. Failure to
23 comply with this request shall be grounds for immediate
24 suspension of the provider under subdivision (b) of
25 Section 14123.

26 Any copies furnished pursuant to this section shall be
27 used only to investigate and pursue criminal or
28 administrative sanctions for Medi-Cal fraud and abuse or
29 the provision of dental services that are below or less than
30 the standard of acceptable quality as prescribed by
31 subdivision (f) of Section 14123, and these copies shall be
32 destroyed when that purpose has been satisfied. This
33 section shall not be construed to prohibit the referral of
34 investigative findings, including copies of those books and
35 records, to the appropriate state licensing, certifying or
36 regulatory authority.

37 *SEC. 3. Section 14124.2 of the Welfare and Institutions*
38 *Code is amended to read:*

39 14124.2. (a) During normal working hours, the
40 department may make any examination of the books and

1 records of any provider pertaining to services rendered
 2 to any beneficiary under this chapter or Chapter 8
 3 (commencing with Section 14200) of this part, and may
 4 visit and inspect the premises or facilities of any provider
 5 it may deem necessary to carry out the provisions of this
 6 chapter and regulations adopted thereunder. A provider
 7 shall furnish ~~such~~ this information or copies of ~~such~~ the
 8 records and documentation upon request by the
 9 department. Unannounced visits to request ~~such~~ this
 10 information shall be reserved for those exceptional
 11 situations where arrangement of an appointment
 12 beforehand is clearly not possible or is clearly
 13 inappropriate to the nature of the intended visit. Only
 14 those related books and records of each service rendered,
 15 the beneficiary to whom rendered, the date, and ~~such~~
 16 additional information as the department may by
 17 regulation require shall be subject to the requirement of
 18 furnishing copies. ~~Such~~ This information may include
 19 records to support and document the recipient's
 20 eligibility for services, ~~and~~ and, to the extent necessary,
 21 records to provide proof of the quantity and receipt of
 22 ~~such~~ the services, and that the services were provided by
 23 proper personnel. Providers shall be reimbursed for
 24 reasonable ~~photocopying—related~~ photocopying-related
 25 expenses as determined by the department. Failure to
 26 comply with ~~such~~ the request shall be grounds for
 27 immediate suspension of the provider under subdivision
 28 (b) of Section 14123.

29 ~~Any~~

30 (b) Any copies furnished pursuant to this section shall
 31 be used only to investigate and pursue criminal or
 32 administrative sanctions for Medi-Cal fraud and abuse *or*
 33 *the provision of dental services that are below or less than*
 34 *the standard of acceptable quality as prescribed by*
 35 *subdivision (f) of Section 14123*, and ~~such~~ the copies shall
 36 be destroyed when that purpose has been satisfied. This
 37 section shall not be construed to prohibit the referral of
 38 investigative findings, including copies of ~~such~~ books and
 39 records, to the appropriate state licensing, certifying, or
 40 regulatory authority.

1 (c) For purposes of this section and Section 14124.1,
2 “provider” shall, in addition to the provider of health care
3 services, also include any person or entity under contract
4 with the provider of health care services to assist in the
5 application process or eligibility determination.

6 SEC. 4. Section 3 of this bill incorporates amendments
7 to Section 14124.2 of the Welfare and Institutions Code
8 proposed by both this bill and AB 2565. It shall only
9 become operative if (1) both bills are enacted and
10 become effective on January 1, 1997, (2) each bill amends
11 Section 14124.2 of the Welfare and Institutions Code, and
12 (3) this bill is enacted after AB 2565, in which case Section
13 2 of this bill shall not become operative.

